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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,018	03/30/2004	Von Friedrich C. Paterro	104148	2793

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EXAMINER

HOLZEN, STEPHEN A

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,018

Applicant(s)

PATERRO, VON FRIEDRICH C.

Examiner

Stephen A. Holzen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-11, 14-22, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 12, 13 and 23-26 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The attempt to incorporate subject matter into this application by reference to Attorney Docket number 102901 is improper. See ¶0015 and ¶0049. The applicant should reference the Application number or patent number and not the attorney docket number.

Claim Objections

2. Claim 27 is objected to because of the following informalities: The claim is dependant from claim 16, however the examiner realizes that the applicant meant this claim to be dependant from claim 17, and has examined the claim accordingly. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,6,10,15,16 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackburn et al (5,797,563). Blackburn et al disclose a flying craft (20), comprising: an exterior hull (30) defining an exterior craft surface of a predetermined surface area at

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least one propulsion source (112); and an electrical generator (14), wherein the hull includes a plurality of sectionalized electromagnetic plates (Figure 13, illustrates "plates" that contain coiled wires #96) that produce a magnetic field, see also Col. 16, lines 36-49), the electromagnetic core operatively coupled to the electrical generator (via #95) to provide an electromagnetic force to each plate of a given magnitude and polarity (#14), the electromagnetic plates collectively forming a substantial portion of the exterior craft surface (see Figure 12) to provide a controllable electromagnetic field around at least portions of the hull to magnetically curve the space adjacent the hull (see Figures 2, 3, and 12),

Figure 13 illustrates sectionalized electromagnetic plates on the upper and lower hulls while Figure 3 illustrates a saucer shape, as well as the collective polarity of the upper and lower surfaces are the same,

wherein the craft is submersible water craft (see Col. 5, lines 51-54).

5. Claims 1,2,3,6,7,11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox (4,891,600). Cox discloses a craft (see Figure 38), comprising: an exterior hull (see Figure 38) defining an exterior craft surface of a predetermined surface area' at least one propulsion source (914 is a generator that creates electro-dynamic behavior; it is a source of propulsion); and an electrical generator (912), wherein the hull includes a plurality of sectionalized electromagnetic plates (904, 906), each of the plurality of electromagnetic plates including an outer wall and an inner wall (Figure 38) fixedly provided on an electromagnetic core (910), the electromagnetic core including at least

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one turn of coil (see Figure 38, #910 and #912) operatively coupled to the electrical generator to provide an electromagnetic force to each plate of a given magnitude and polarity, the electromagnetic plates collectively forming a substantial portion of the exterior craft surface (see Figure 38) to provide a controllable electromagnetic field around at least portions of the hull to magnetically curve the space adjacent the hull,

wherein the electromagnetic plates extend around the periphery of the hull of the craft (see Figure 38, #904 and 906),

wherein the electromagnetic plates extend radially around the hull of the craft (see Figure 38, #904 and 906),

wherein the craft is a flying craft (see Figure 38),

wherein the flying craft has a saucer shape with an upper hull portion and a lower hull portion (see Figure 38),

wherein the electrical generator includes at least one high frequency oscillator (860).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8, 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable of Cox in view of Paterro (6,367,739). Cox discloses every aspect of the present invention

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except where the aircraft has the propulsion system described in these claims. Paterro has disclosed that the claimed propulsion system is well known in the art. (Note: The applicant's own patent is being used against him. Patent '739 published more than 1 year prior to the filing the current application, and therefor is not disqualified under 103(c).) Paterro ('739) discloses every aspect of claims 8, 9, and 14. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the propulsion system of Paterro in the aircraft of Cox for the purpose of providing a redundant propulsion system to prevent the aircraft from crash landing in the case where the electromagnetic system fails.

8. Claim 17, 18, 19, 21, 22 and 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cox in view of Paterro.

Re – Claim 17, 18, 19, and 22: Cox discloses every aspect of the electromagnetic propulsion system as claimed (see examiners notes in paragraph 3 above). Cox discloses every aspect of the present invention except where the aircraft has the propulsion system described in these claims.

Paterro has disclosed that the claimed propulsion system (including the jets, the number of jets, their orientation, and location) is well known in the art. (Note: The applicant's own patent is being used against him. Patent '739 published over 1 year prior to the filing the current application, and therefor is not disqualified under 103(c).) Paterro ('739) discloses every aspect of claim 17 and it would have been obvious to one

having ordinary skill in the art at the time the invention was made to use the propulsion system of Paterro in the aircraft of Cox for the purpose of providing a redundant propulsion system to prevent the aircraft from crash landing in the case where the electromagnetic system fails.

Re – Claim 21: wherein a collective exterior surface area of the electromagnetic plates is about one half of the surface area of the hull (see Figure 13 to Cox, the bottom surface is not covered by plates),

Re – Claim 27 (which was to be dependant from claim 17): Paterro discloses that non-fissile fuel engines are well known in the art. (see Col. 3, lines 33-34).

9. Claims 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Cox as applied to claim 20 above, and further in view of Walmsley (2003/0127559). Cox discloses that it is known to have electromagnetic plates on the upper hull portion extending from substantially the pinnacle of the hull to an outer periphery of the upper hull surface. Cox does not disclose a cockpit at the top of the hull. Walmsley discloses that it is known in the art to adapt a VTOL aircraft to have a flight deck centrally on the upper hull portion above a turbine (7). (see Figure 1). It would have been obvious to one having ordinary skill in the art to include the flight deck for the purpose of controlling the aircraft manually. Further it would have been obvious to locate the flight deck at the central top of the hull for the purpose of symmetry and balance.

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10. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cox in view of Paterro and further in view of Walmsley.

Cox discloses every aspect of the claimed electromagnetic system (as discussed above in Paragraph 3). Paterro discloses every aspect of the claimed fuselage shape and propulsion source in his own patent: US 6,367,739.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the propulsion system of Paterro in the aircraft of Cox for the purpose of providing a redundant propulsion system to prevent the aircraft from crash landing in the case where the electromagnetic system fails.

Cox further discloses that it is known to have electromagnetic plates on the upper hull portion extending from substantially the pinnacle of the hull to an outer periphery of the upper hull surface. Cox does not disclose a cockpit at the top of the hull. Walmsley discloses that it is known in the art to adapt a VTOL aircraft to have a flight deck centrally on the upper hull portion above a turbine (7). (see Figure 1). It would have been obvious to one having ordinary skill in the art to include the flight deck for the purpose of controlling the aircraft manually. Further it would have been obvious to locate the flight deck at the central top of the hull for the purpose of symmetry and balance.

Allowable Subject Matter


11. Claims 4,5,23,24,25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose the limitations in these claims, while in combination with the limitations of the base claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 703-308-2484. The examiner can normally be reached on M-F 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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